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APPENDIX

IN THE
Supreme Court of the United States

OCTOBER TERM, 1976

No. 77-154

WILSON H. ELKINS, PRESIDENT,
UNIVERSITY OF MARYLAND

Petitioner,

v.

JUAN CARLOS MORENO, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED JULY 28, 1977
CERTIORARI GRANTED OCTOBER 11, 1977

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RELEVANT DOCKET ENTRIES

5/27/75—(1) Complaint.

6/25/75—(3) Answer.

7/29/75—(4) Request of Plaintiffs for Admissions of
Fact.

7/30/75—(5) Interrogatories of Plaintiffs Propounded to Defendants.

8/28/75—(7) Answer of Defendants to Request for Admissions of Fact.

8/29/75—(8) Answers of Defendants to Interrogatories.

10/6/75—(9) Motion of Plaintiffs for Summary Judgment.

11/4/75—(11) Motion of Defendants for Summary Judgment.

11/18/75—(14) Motion of Plaintiffs for Class Action Determination.

4/9/76 Hearing on all Motions before Miller J.

4/9/76 Argued and held sub curia.

7/13/76—(19) Opinion of Court and Order.

7/31/76—(20) Defendant's Motion for Stay of Order.

7/31/76—(20a) Notice of Appeal to the U.S. Court of Appeals for the Fourth Circuit.

8/2/76 Hearing on Motion for Stay.

8/3/76—(21) Order Granting Stay.

4/4/77 Argued and held sub curia. In Court of Appeals.

4/28/77 Per Curiam Opinion of 4th Circuit affirming District Court decision.

5/11/77 Appellant's Petition for rehearing and suggestion for rehearing en banc.

5/23/77 Petition for rehearing denied.

5/26/77 Appellant's Motion to Stay Mandate.

5/26/77 Mandate Stayed pending application to Supreme Court for a writ of certiorari.

7/28/77 Petition for a Writ of Certiorari.

WHAT MAY BE FOUND IN THE APPENDIX TO THE PETITION FOR A WRIT OF CERTIORARI

The following items may be found in the Appendix to the Petition for a Writ of Certiorari which was filed with the Petition:

1. Opinion and Order of the District Court.
2. Order Granting Stay.
3. Per Curiam Opinion of U.S. Court of Appeals for the Fourth Circuit.
4. Order denying Petition for Rehearing.
5. Order Staying Mandate of Fourth Circuit.

VERIFIED COMPLAINT (Filed May 27, 1975)

(Action for Declaratory and Injunctive Relief)

1. This is an action by three aliens, each of whom resides in Maryland, against the University of Maryland and the President thereof, alleging violations of federal statutory and constitutional rights and seeking declaratory and injunctive relief against the defendants' denying plaintiffs in-state status for admission, tuition, and charge-differential purposes (hereinafter usually referred to as "in-state status").

2. This action arises under Section 1 of the Civil Rights Act of 1871, 17 Stat. 13, 42 U.S.C. § 1983; Section 1977 of the Revised Statutes of the United States, 42 U.S.C. § 1981; Sections 201, 202, and 204 of Title II of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000a, 2000a-1, and 2000a-3; Section 601 of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d; and the Due Process Clause and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

3. The jurisdiction of this Court is founded upon 28 U.S.C. § 1343(3) and (4).

4. Venue is present by virtue of 28 U.S.C. 1391(b).

5. Plaintiffs bring this action on behalf of themselves and all other persons residing in Maryland who attend, or desire to attend, defendant University of Maryland and: (1) who hold visas under 8 U.S.C. § 1101(a)(15)(G)(iv) (hereinafter "G-4 visas"); or, (2) who are financially dependent upon the holder of such a visa; or, (3) who pay no federal, state, or local income tax on wages or salary from an international organization under the provisions of an international treaty to which the United States is a party; or, (4) who are financially dependent upon one who pays no such tax on such wages or salary under the provisions of such a treaty. The number of members of such class is sufficiently numerous that joinder of all members is impracticable. There are questions of law or fact presented herein which are common to the entire class of such persons. The claims of the plaintiffs herein are typical of the claims of such class. The plaintiffs will fairly and adequately protect the interests of such class. Defendants have acted on grounds generally applicable to the class in such a way as to make appropriate final injunctive or declaratory relief with respect to the class as a whole.

6. Plaintiff Juan Carlos Moreno is a native of Paraguay; he has resided in Maryland for fifteen years. He is a student at the University of Maryland.

7. Plaintiff Juan Pablo Otero is a native of Bolivia; he has resided in Maryland for ten years. He is a student at the University of Maryland.

8. Plaintiff Clare B. Hogg is a native of the United Kingdom; she has resided in Maryland for the past five years. She is a student at the University of Maryland.

9. The University of Maryland is a public corporation, chartered under Maryland law, Article 77A § 15(a), Anno. Code of Maryland (hereinafter the "University").

10. Dr. Wilson H. Elkins is the President of the University of Maryland and its chief executive officer (hereinafter the "President").

11. Under Article 77A § 15(e), Anno. Code of Maryland, the Board of Regents of the University "shall exercise with reference to the University . . . all the powers, rights, and privileges that go with the responsibility of management. . . ."

12. On September 21, 1973, the Board of Regents approved a new general policy for the determination of in-state status. Under such general policy the University has denied and continues to deny in-state status to all students who neither are United States citizens nor hold immigrant visas. Students who are United States citizens or who hold immigrant visa may, under such policy, be granted in-state status, if *inter alia*, they are: (a) financially dependent on parents domiciled in Maryland for at least six consecutive months prior to the close of registration for the semester in question, or (b) financially independent for the preceding twelve months and have themselves maintained domicile in Maryland for the above six-month period.

13. As indicated in Exhibit 1, Attachment 9, and Exhibit 3, Attachment 7, attached hereto, defendants have further determined that:

(a) students who are neither United States citizens nor hold immigrant visas may not be granted in-state status regardless of whether such students or their families have established domicile in Maryland;

(b) students whose parents do not pay Maryland income taxes on income earned from an international organization under the provisions of an international treaty to which the United States is a party may not be granted in-state status because of the "principle of cost equalization" and because the University's "policy reflects the desire to equalize, as far as possible, the cost of education between those who support the University of Maryland through payment of the full spectrum of Maryland taxes, and those who do not"; and

(c) students or their parents who hold G-4 visas are thereby precluded from establishing the requisite intent to establish domicile in Maryland.

14. The University currently requires students other than in-state students to pay significantly higher fees for tuition and other charges, including board charges in some circumstances, and subjects them to more restrictive standards for admission in some circumstances than it does in the case of in-state students.

15. Plaintiffs Moreno, Otero, and Hogg have pursued each and every avenue of administrative review, including an unsuccessful appeal to the President, within the University of Maryland of the University's decision to deny them in-state status, and have exhausted all their administrative remedies, prior to seeking relief in this Court.

16. Documents verifying certain facts relevant to the domicile of plaintiff Moreno's family, all of which were presented to the defendants during the administrative review within the University, are appended hereto as Exhibit 1, Attachments 1 to 9. Plaintiff Moreno's father, Mr. Manuel A. Moreno, is a citizen of Paraguay and is the holder of a G-4 visa; he has been employed by the Inter-American Development Bank for approximately fourteen years. Manuel Moreno has owned a home in Maryland for the past twelve years. Plaintiff Moreno's mother, Mrs. Gladys M. Moreno, is a citizen of Paraguay and is the holder of a G-4 visa. Manuel and Gladys Moreno own no property in Paraguay, having sold the house which they formerly owned there in 1960. Manuel and Gladys Moreno have paid all Maryland State and Montgomery County property taxes on their home as well as all state and local retail, motor vehicle, fuel, excise and other taxes applicable to them as required by law. Manuel and Gladys Moreno each hold a Maryland driver's license; their automobiles are registered in Maryland. Manuel and Gladys Moreno have not resided anywhere other than in Maryland for the past fourteen years; they have no present intention to reside anywhere other than in the State of Maryland.

17. Manuel and Gladys Moreno are domiciled in the State of Maryland.

18. Plaintiff Moreno has lived with his parents since birth. He has lived in the United States since the age of four, has attended primary and secondary schools in the United States without interruption, and graduated from high school in Maryland. Plaintiff Moreno is a citizen of Paraguay; he now holds a G-4 visa. He holds a Maryland driver's license. He has filed United States and Maryland income tax returns for 1973 and 1974. Plaintiff Moreno has not resided anywhere other than in Maryland for the past fourteen years; he has no present intention to reside anywhere other than in the State of Maryland.

19. Plaintiff Moreno is domiciled in the State of Maryland.

20. Defendants have denied plaintiff Moreno in-state status, thus subjecting him to higher charges for tuition and other costs than other domiciliaries of Maryland. By so denying plaintiff Moreno in-state status, defendants have violated and are violating such plaintiff's rights under the federal statutes and the clauses of the United States Constitution set forth in paragraph 2 above.

21. Documents verifying certain facts relevant to the domicile of plaintiff Otero's family, all of which were presented to defendants during the administrative review within the University, are appended hereto as Exhibit 2, Attachments 1 to 6. Plaintiff Otero's father, Mr. Rene Otero, is a citizen of Bolivia and is the holder of a G-4 visa; he has been employed by the Inter-American Development Bank for approximately fourteen years. Plaintiff Otero's mother, Mrs. Teresa Bailey Otero, is a citizen of the United States; she is registered to vote in Maryland. Rene and Teresa Otero resided in the District of Columbia from the time of their arrival in the United States in 1960 until 1965, when they moved to Maryland. Rene and Teresa Otero have owned a home in Maryland since 1965 and have resided

therein for ten years; they have paid all Maryland State and Montgomery County property taxes thereon as well as all state and local retail, motor vehicle, fuel, excise, and other taxes applicable to them as required by law. Rene and Teresa Otero each hold a Maryland driver's license; Rene Otero's automobile is registered in Maryland. Rene and Teresa Otero own no property in Bolivia. Rene and Teresa Otero have not resided anywhere other than in Maryland for the past ten years; they have no present intention to reside anywhere other than in the State of Maryland.

22. Rene and Teresa Otero are domiciled in the State of Maryland.

23. Plaintiff Otero has lived with his parents since birth. He has lived in the United States since the age of five and has attended primary schools, secondary schools, and college in the United States without interruption. Plaintiff Otero is a citizen of Bolivia; he now holds a G-4 visa; he has made application to adjust his status to that of immigrant. Plaintiff Otero holds a Maryland driver's license. Plaintiff Otero has filed both United States and Maryland income tax returns in 1972, 1973, and 1974, and he has paid income tax to both Maryland and the United States in each of those three years. Plaintiff Otero has not resided anywhere other than in Maryland for the past ten years; he has no present intention to reside anywhere other than in the State of Maryland.

24. Plaintiff Otero is domiciled in the State of Maryland.

25. Defendants have denied plaintiff Otero in-state status, thus subjecting him to higher charges for tuition and other costs than other domiciliaries of Maryland. By so denying plaintiff Otero in-state status, defendants have violated and are violating such plaintiff's rights under the federal statutes and the clauses of the United States Constitution set forth in paragraph 2 above.

26. Documents verifying certain facts relevant to the domicile of plaintiff Hogg's family, all of which were presented to the defendants during the administrative review within the University, are appended hereto as Exhibit 3, Attachments 1 to 9. Plaintiff Hogg's father, Mr. Vincent Hogg, is a citizen of the United Kingdom and is the holder of a G-4 visa; he has been employed by the International Bank for Reconstruction and Development for thirteen years. Plaintiff Hogg's mother, Mrs. Barbara Hogg, and the Hogg's daughter Susan are citizens of the United Kingdom. Susan Hogg married a United States citizen in 1973 and adjusted her status to that of permanent resident alien. Vincent and Barbara Hogg resided in the District of Columbia from the time of their arrival in the United States in 1962 until 1970, when they moved to Maryland. They have resided in Maryland for five years except as described below. Vincent and Barbara Hogg own their own home in Maryland as well as a house in which they formerly resided in the District; the house in the District is rented. Vincent and Barbara Hogg own no real property in the United Kingdom with the exception of a small condominium apartment which is currently listed for sale with a real estate agent and which it is their present intention to sell as soon as a sale can be consummated. Substantially all of their personal property and investments are here in the United States with the exception of a bank account in a sum equivalent to approximately five hundred dollars maintained by Vincent Hogg in the United Kingdom for the convenience of paying life insurance premiums and professional journal subscriptions; he does not make payments to the United Kingdom's State Pension Fund. Vincent Hogg's will was written in the United States and represents that he resides in Maryland. Vincent Hogg's automobiles are registered in Maryland. Vincent and Barbara Hogg each hold a Maryland driver's license. They belong to the local civic association in the area in which they reside. Vincent and Barbara Hogg have filed joint United States income tax

returns every year since 1963. In 1974 they paid income taxes to both the United States and to the State of Maryland on all income other than Mrs. Hogg's salary from the International Bank for Reconstruction and Development, as well as all state and local retail, motor vehicle, fuel, excise, and other taxes applicable to them as required by law. Vincent and Barbara Hogg have not resided anywhere other than in Maryland for the past five years, with the exception of a period abroad of approximately nine months as part of Vincent Hogg's employment; they have no intention to reside any where other than in the State of Maryland.

27. Vincent and Barbara Hogg are domiciled in the State of Maryland.

28. Plaintiff Hogg has resided with her parents since birth. She has lived in the United States since the age of seven and has attended primary schools, secondary schools, and college in the United States without interruption, with the exception of the approximately nine-month period described in paragraph 26 above. Plaintiff Hogg is a citizen of the United Kingdom; she now holds a G-4 visa; she holds a Maryland driver's license. Plaintiff Hogg has filed both United States and Maryland income tax returns in 1973 and 1974. Plaintiff Hogg has not resided anywhere other than in Maryland for the past five years, with the exception of the approximately nine-month period described in paragraph 26 above; she has no present intention to reside anywhere other than in the State of Maryland.

29. Plaintiff Hogg is domiciled in the State of Maryland.

30. Defendants have denied plaintiff Hogg in-state status, thus subjecting her to higher charges for tuition and other costs than other domiciliaries of Maryland. By so denying plaintiff Hogg in-state status defendants have violated and are violating plaintiff's rights under the federal statutes and the clauses of the United States Constitution set forth in paragraph 2 above.

WHEREFORE plaintiffs pray that this Court

(1) Adjudge and declare that the actions of defendants in denying to plaintiffs in-state status for admission, tuition, and charge-differential purposes are unlawful;

(2) Enjoin the defendants to reclassify the plaintiffs as students hiving such in-state status;

(3) Enjoin the defendants from further denying to any student in-state status either partially or wholly on the basis that such student or any parent or person on whom such student is financially dependent: (a) is the holder of a G-4 visa; (b) pays no Maryland State income tax on a salary or wages from an international organization under the provisions of an international treaty to which the United States is a party; or (c) is not domiciled in the State of Maryland by reason of holding such a visa or paying no Maryland State income tax on such salary or wages under the provisions of such a treaty.

(4) Grant to plaintiffs costs, reasonable attorneys' fees, and such other relief as may be proper.

Dated: May 27, 1975

Signatures omitted

Exhibit 1, Attachment 9

UNIVERSITY OF MARYLAND

March 19, 1975

Mr. Alfred L. Scanlan
Shea & Gardner
734 Fifteenth Street, N. W.
Washington, D. C. 20005

Dear Mr. Scanlan:

This is to acknowledge your letter of February 24, 1975. I have reviewed the material relating to "out-of-state" classification of Juan C. Moreno and Juan P. Otero, and I concur in the decision of the Intercampus

Review Committee. I am, therefore, denying your appeal.

It is the policy of the University of Maryland to grant in-state status for admission, tuition and charge-differential purposes only to United States citizens and to immigrant aliens lawfully admitted for permanent residence. Furthermore, such individuals (or their parents) must display Maryland domicile. This classification policy reflects the desire to equalize, as far as possible, the cost of education between those who support the University of Maryland through payment of the full spectrum of Maryland taxes, and those who do not. In reviewing these cases, it does not appear that the parents pay Maryland income tax. It is my opinion, therefore, that the aforesaid purpose of the policy, as well as the clear language of the policy, requires the classification of Mr. Moreno and Mr. Otero as "out-of-state."

The University's classification policy also distinguishes between domiciliaries and non-domiciliaries of Maryland. In this regard, it is my opinion, and the position of the University, that the terms and conditions of a G-4 non-immigrant visa preclude establishing the requisite intent necessary for Maryland domicile. Thus, because Mr. Moreno and Mr. Otero are not domiciliaries of Maryland, and because of the underlying principle of cost equalization, I am denying the requests for reclassification.

Sincerely yours,

WILSON H. ELKINS,
President.

Exhibit 3, Attachment 9
UNIVERSITY OF MARYLAND

May 14, 1975

Mr. Alfred L. Scanlan
Shea & Gardner
734 Fifteenth Street, N. W.
Washington, D. C. 20005

Dear Mr. Scanlan:

This is to acknowledge your letter of April 30, 1975 appealing the decision of the Intercampus Review Committee concerning the classification of Ms. Clare B. Hogg as an out-of-state resident. I have reviewed all of the material concerning her appeal, and I concur in the decision of the Intercampus Review Committee that she be classified as an out-of-state resident.

It is the policy of the University of Maryland to grant-in-state status for admission, tuition and charge-differential purposes only to United States citizens and to immigrant aliens lawfully admitted for permanent residence. Furthermore, such individuals (or their parents) must display Maryland domicile. The University's classification policy distinguishes between domiciliaries and non-domiciliaries of Maryland. In this regard, it is my opinion, and the position of the University, that the terms and conditions of a G-4 non-immigrant visa preclude establishing the requisite intent necessary for Maryland domicile.

This classification policy reflects the desire to equalize, as far as possible, the cost of education between those who support the University of Maryland through payment of the full spectrum of Maryland taxes and those who do not.

In reviewing this case, it does not appear that the parents pay Maryland income tax. It is my opinion, therefore, that the aforesaid purpose of the policy, as well as the clear language of the policy, requires the classification of Ms. Hogg as out-of-state.

Sincerely yours,

WILSON H. ELKINS,
President.

ANSWER

(Filed June 25, 1975)

Defendants, University of Maryland and Dr. Wilson H. Elkins, President, University of Maryland, by Francis B. Burch, Attorney General of Maryland, Estelle A. Fishbein, David H. Feldman, and Jack T. Roach, Assistant Attorneys General, their attorneys, in answer to the Verified Complaint* filed herein, state:

FIRST DEFENSE

This Honorable Court lacks jurisdiction over the subject matter of the rights of action alleged in the Complaint.

SECOND DEFENSE

This Honorable Court lacks jurisdiction over the person of Defendants University of Maryland and Dr. Wilson H. Elkins, in his capacity as President, University of Maryland.

THIRD DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

FOURTH DEFENSE

The Complaint fails to state a claim as a class action upon which relief can be granted.

FIFTH DEFENSE

The Complaint fails to state a claim upon which class relief can be granted.

SIXTH DEFENSE

The Complaint fails to join parties under Rule 19 of the Federal Rules of Civil Procedure.

* Although "Verified," the Complaint need not have been since no temporary restraining order was sought, see FED. R. CIV. P. 65(b), and thus the verification is of no effect, see FED. R. CIV. P. 11.

SEVENTH DEFENSE

Plaintiffs, Juan Carlos Moreno, Juan Pablo Otero, and Clare B. Hogg, lack standing to bring the rights of action alleged in the Complaint.

EIGHTH DEFENSE

Plaintiffs, Juan Carlos Moreno, Juan Pablo Otero, and Clare B. Hogg, are not proper parties plaintiff to the Complaint.

NINTH DEFENSE

No case or controversy exists between Plaintiffs, Juan Carlos Moreno, Juan Pablo Otero, and Clare B. Hogg, on the one hand, and Defendants, University of Maryland and Dr. Wilson H. Elkins, in his capacity as President, University of Maryland, on the other hand.

TENTH DEFENSE

This Honorable Court should abstain from exercising any jurisdiction it may possess in this action until it shall have been heard and determined fully by the courts of Maryland.

ELEVENTH DEFENSE

1. Defendants deny the allegations contained in paragraph 1 of the Complaint, except that Defendants admit that Plaintiffs are aliens.

2. Defendants deny the allegations contained in paragraph 2 of the Complaint.

3. Defendants deny the allegations contained in paragraph 3 of the Complaint.

4. Defendants admit the allegations contained in paragraph 4 of the Complaint.

5. Defendants deny the allegations contained in paragraph 5 of the Complaint.

6. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint, except that Defendants admit that Plaintiff Juan Carlos Moreno is a student at the University of

Maryland and deny that Plaintiff Juan Carlos Moreno has resided in Maryland for fifteen years.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint, except that Defendants admit that Plaintiff Juan Pablo Otero is a student at the University of Maryland and deny that Plaintiff Juan Pablo Otero has resided in Maryland for ten years.

8. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint, except that Defendants admit that Plaintiff Clare B. Hogg is a student at the University of Maryland and deny that Plaintiff Clare B. Hogg has resided in Maryland for the past five years.

9. Defendants admit the allegations contained in paragraph 9 of the Complaint.

10. Defendants admit the allegations contained in paragraph 10 of the Complaint.

11. Defendants admit the allegations contained in paragraph 11 of the Complaint.

12. Defendants admit the allegations contained in paragraph 12 of the Complaint, except that Defendants deny that the University has denied and continues to deny in-state status to all students who neither are United States citizens nor hold immigrant visas.

13. Defendants deny the allegations contained in paragraph 13 of the Complaint and all subparts thereof, except that Defendants admit that they have determined that students or their parents who hold G-4 visas are precluded from establishing the requisite intent to establish domicile in Maryland.

14. Defendants deny the allegations contained in paragraph 14 of the Complaint.

15. Defendants admit the allegations contained in paragraph 15 of the Complaint.

16. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint, except that Defendants admit that copies of the documents, appended to the Complaint as Exhibit 1, Attachments 1 to 9, were presented to Defendants during the administrative review within the University, and deny that Manuel and Gladys Moreno have not resided anywhere other than in Maryland for the past fourteen years and that they have no present intention to reside anywhere other than in the State of Maryland.

17. Defendants deny the allegations contained in paragraph 17 of the Complaint.

18. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint, except that Defendants deny that Plaintiff Moreno has not resided anywhere other than in Maryland for the past fourteen years and that he has no present intention of residing anywhere other than the State of Maryland.

19. Defendants deny the allegation contained in paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in paragraph 20 of the Complaint.

21. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint, except that Defendants admit that copies of the documents, appended to the Complaint as Exhibit 2, Attachments 1 to 6, were presented to Defendants during the administrative review within the University, and deny that Rene and Teresa Otero have not resided anywhere other than in Maryland for the past ten years and that they have no present intention to reside anywhere other than in the State of Maryland.

22. Defendants deny the allegations contained in paragraph 22 of the Complaint.

23. Defendants state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint, except that Defendants deny that Plaintiff Otero has not resided anywhere other than in Maryland for the past ten years and that he has no present intention to reside anywhere other than in the State of Maryland.

24. Defendants deny the allegations contained in paragraph 24 of the Complaint.

25. Defendants deny the allegations contained in paragraph 25 of the Complaint.

26. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint, except that Defendants admit that copies of the documents, appended to the Complaint as Exhibit 3, Attachments 1 to 9, were presented to Defendants during the administrative review within the University, and deny that Vincent and Barbara Hogg have not resided anywhere other than in Maryland for the past five years, with the exception of a period of approximately nine months as part of Vincent Hogg's employment, and that they have no present intention to reside anywhere other than in the State of Maryland.

27. Defendants deny the allegations contained in paragraph 27 of the Complaint.

28. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint, except that Defendants deny that Plaintiff Hogg has not resided anywhere other than in Maryland for the past five years, with the exception of the approximately nine-month period described in paragraph 26 above, and that she has no present intention to reside anywhere other than in the State of Maryland.

29. Defendants deny the allegation contained in paragraph 29 of the Complaint.

30. Defendants deny the allegations contained in paragraph 30 of the Complaint.

WHEREFORE, Defendants respectfully pray that:

- (1) The relief requested in the Complaint be denied.
- (2) All costs of these proceedings be assessed against Plaintiffs.

Signatures omitted.

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

(Filed October 6, 1975)

NOW COME the plaintiffs, through undersigned counsel, to move the Court as follows:

1. That it enter, pursuant to Rule 56 of the Federal Rules of Civil Procedure, a summary judgment in plaintiffs' favor, namely that this Court:

(1) Adjudge and declare that the actions of defendants in denying to plaintiffs in-state status for admission, tuition, and charge differential purposes are unlawful;

(2) Enjoin the defendants to reclassify the plaintiffs as students having such in-state status;

(3) Enjoin the defendants from further denying to any student in-state status either partially or wholly on the basis that such student or any parent or person or whom such student is financially dependent: (a) is the holder of a visa under 8 U.S.C. 1101(a)(15)(G)(iv); (b) pays no Maryland State income tax on a salary or wages from an international organization under the provisions of an international agreement to which the United States is a party; or (c) is not domiciled in the State of Maryland by reason of holding such a visa or paying no Maryland State income tax on such salary or wages under the provisions of such an agreement.

(4) Grant to plaintiffs costs, reasonable attorneys' fees, and such other relief as may be proper.

2. If summary judgment is not rendered in plaintiffs' favor upon the whole case or for all the relief asked and a trial is necessary, that the Court, at the hearing on the motion, by examining the pleadings and the evidence before it and by interrogating counsel, ascertain what material facts are actually and in good faith controverted, and thereupon make an order specifying the facts that appear without substantial controversy and directing such further proceedings in the action are just.

This motion is based upon the Verified Complaint, on the exhibits and attachments thereto, and on the affidavits filed herewith.

Pursuant to Rule 6 of the Rules of this Court, plaintiffs request a hearing on this motion for summary judgment.

(Signatures omitted)

AFFIDAVIT OF ARNOLD H. WEISS

DISTRICT OF COLUMBIA SS:

Arnold H. Weiss, being first duly sworn, deposes and states as follows:

1. I am the General Counsel of the Inter-American Development Bank, a public international organization located in Washington, D.C. I am fully familiar with the personnel policies of the Bank and the legal requirements related thereto.

2. Article VIII, Section 5(e) of the Agreement Establishing the Inter-American Development Bank, 10 U.S.T. 3029, T.I.A.S. No. 4397 provides that "[d]ue regard shall be paid to the importance of recruiting the staff on as wide a geographic basis as possible."

3. Title 1, Section 101(a) of the Immigration and Nationality Act provides for a separate visa classification for officers, or employees of international organizations, and members of their immediate families. 8 USC Sec. 1101 (a)(15)(G)(iv).

4. Pursuant to the matters referred to in paragraphs 2 and 3 above, it is the policy of the Bank not to assist any of such persons in adjusting or otherwise changing their visa status from that provided under 8 USC Sec. 1101(a)(15)(G)(iv) to any other visa status.

5. No authorized representative of the Bank files, signs, or otherwise approves U.S. Department of Labor form MA7-50A (Statement of Qualifications of Alien) or MA7-50B (Job Offer for Alien Employment); or to my knowledge has ever done so.

6. The three attachments are copies of letters from the files of the Inter-American Development Bank:

(A) May 20, 1965, letter from Dr. Wilson H. Elkins, President of the University of Maryland, to Mr. Paul A. Colborn, Chief of the General Legal Division of the Pan American Union;

(B) December 27, 1965, letter from Mr. Roy M. Walsh, of the Inter-American Development Bank to Mr. G. Watson Algire, Director of Admissions of the University;

(C) January 7, 1966, letter from Mr. Algire to Mr. Walsh, responding to (B) above.

ARNOLD H. WEISS

May 20, 1965

Mr. Paul A. Colborn, Chief
General Legal Division
The Pan American Union
Washington 6, D. C.

Dear Mr. Colborn:

Since receiving your letter of April 13 we have been considering the tuition rates for employees of international organizations. I note from your letter that no income tax, federal or state, is levied on the salaries of non-citizen employees of certain international organizations, and in each case this is by virtue of a treaty. You also say that liability for the state income tax varies

with the jurisdiction and that all alien employees of international organizations are exempted from the tax in the State of Maryland.

The tuition rate at the University of Maryland is determined mainly by domicile. Since this is the case, we have decided that it would be fair to all parties concerned to classify in accordance with domicile: that is, for minors, the parents must own (personally) and occupy property in the State of Maryland for a period of six months before residency status will be granted. For the adult, the same will hold. This ruling is not to be considered retroactive. I believe that this interpretation of our resident and non-resident status is proper and that it will be fair to the employees of the Pan American Union and other international organizations.

With kindest regards, I am

Sincerely yours,

WILSON H. ELKINS,
President.

December 27, 1965

Mr. G. Watson Algire
Dean of Admissions
University of Maryland
College Park, Maryland

Dear Dean Algire:

Last Tuesday, I spoke to Mrs. Will in regard to the attached letter and she recommended that I write to you. My purpose is to receive confirmation from the University of Maryland that the ruling on classification of non-citizen employees in accordance with domicile, as contained in the attached letter, is also applicable to that category of employees in this Bank. Further, I understand that this ruling is applicable to both tuition and boarding rates.

The Inter-American Development Bank is an international organization of which all the members are

governments. It was established and is operating under the Agreement Establishing the Bank signed by these governments (copy attached). Article XI of the Agreement establishes, among other things, certain privileges and immunities for officials and employees of the Bank, including immunity from taxation. The United States of America became a member of the Bank pursuant to the Inter-American Development Bank Act (Public Law 86-147, copy attached). Section 9 of said Act gives full force and effect in the United States to Article XI of the Agreement. The privileges and immunities of the International Organization Privileges and Immunities Act were extended to the Inter-American Development Bank by virtue of Executive Order 1033, April 8, 1960, copy attached.

Should you require any additional information, please do not hesitate to let me know. In the meantime, I thank you for your consideration of this matter and hope that the information contained herein proves sufficient for you to make a decision.

Sincerely yours,

ROY M. WALSH,
Office of Personnel

January 7, 1966

Mr. Roy M. Walsh
Office of Personnel
Inter-American Development Bank
Washington 25, D. C.

Dear Mr. Walsh:

I am replying to your letter of December 27 concerning the classification of Maryland residence for fee-paying purposes at the University.

If you will recall, you enclosed a copy of a letter dated May 20, 1965 from Dr. Wilson H. Elkins to Mr. Paul A. Colborn, Chief, General Legal Division, The Pan American Union. The intent of this decision is to grant Maryland residence status for fee-paying purposes at

the University of Maryland to those employees of international organizations who are living in the State of Maryland and are in this country on a G4 visa only. This is, of course, granted in the case of minors provided the parents personally own and occupy property in the State of Maryland for a period of six months before such residence status is granted. The same privilege is extended to adults.

I hope this answers the questions raised in your letter of December 27.

Sincerely yours,

G. WATSON ALGIRE,
Director of Admissions
and Registrations

AFFIDAVIT OF HUGH N. SCOTT

DISTRICT OF COLUMBIA SS:

Hugh N. Scott, being first duly sworn, deposes and states as follows:

1. I am Assistant General Counsel of the International Bank for Reconstruction and Development in Washington, D.C. I am fully familiar with the personnel policies of the Bank and the legal requirements related thereto.

2. Article V, Section 5(d) of the Articles of Agreement of the International Bank for Reconstruction and Development, 60 Stat. 1440, T.I.A.S. No. 1502 provides that "[i]n appointing the officers and staff, the President shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographic basis as possible." Pursuant to this requirement for some years it has been neither the policy nor the practice for the Bank to assist any of its employees in adjusting or otherwise changing their visa status from one in which such employee holds a visa under 8 U.S.C.

1101(a)(15)(G)(iv) to one in which he holds an immigrant visa; thus neither the Bank nor its authorized representative files, signs, or otherwise approves U.S. Department of Labor form MA7-50A (Statement of Qualifications of Alien) or MA7-50B (Job Offer for Alien Employment).

HUGH N. SCOTT.

AFFIDAVIT OF R. JAMES WOOLSEY

R. JAMES WOOLSEY, being first duly sworn, deposes and states as follows:

1. I am a member of the bar of the District of Columbia, associated with the firm of Shea & Gardner, 734 Fifteenth Street, N.W., Washington, D. C. 20005, and one of the attorneys for plaintiffs in this action. This affidavit is submitted in support of plaintiffs' motion for summary judgment.

2. I have obtained from the parents of each of the three plaintiffs the total real estate taxes for the calendar year 1975 paid by each family on the home which each owns and in which each now lives in Maryland.

3. The average of the three figures indicated in paragraph 2 above is \$1,362.

R. JAMES WOOLSEY

INTER-AMERICAN DEVELOPMENT BANK PERSONNEL POLICIES

iii. *Temporary Employees with contracts for 6 months or more but less than one year*

Payment will be made only for those authorized dependents who accompany or join the employee at his post of duty within a period of time that does not exceed ½ of the remaining contract period.

362. DEPENDENCY ALLOWANCE

In accordance with the practice of other international organizations in adopting a net-of-tax salary structure to meet the needs of employees with varying dependency status, the Bank grants a dependency allowance to eligible employees for the spouse and other dependents who meet the requirements established below.

Regular employees, the Controllers of the Group of Controllers of the System of Review and Evaluation, Sectorial Specialists and Assistants to Executive Directors, are eligible for dependency allowance for their dependents recognized by the Bank.

When both husband and wife are employed by the Bank, only one of them may be eligible for dependency allowance.

The following dependents are recognized as such by the Bank, when the requisites indicated below are fulfilled:

Spouse

- a) The gross annual income of the spouse must be less than \$10,000 and must not exceed the employee's basic salary.

For purposes of this policy "gross annual income" shall mean salaries, wages, fees, income from investments, etc. In those cases wherein the spouse by virtue of working for another international organization, etc., receives a net income, such income will be converted to gross by the Bank by means of

determining the federal, state and local taxes, in a manner similar to that used for U.S. staff members at Headquarters, and adding this figure to the net income.

- b) If the employee and spouse reside in separate domiciles, the employees must contribute more than half of the spouse's support. The requirements in a) above also apply.
- c) If the employee is legally separated from the spouse, he will not be entitled to dependency allowance for said spouse.

Children

Each single child or adopted single child of the employee or spouse, who receives more than half of the total financial support from the employee or his spouse, and who is one of the following categories:

1. Less than 19 years of age.
2. Less than 25 years of age and a full-time student (not less than 20 classroom hours of attendance per week or 12 credit hours per semester) in an institution of higher learning (college or university, or a trade, technical, or business school all of which require graduation from high school as a prerequisite for admission).
3. Physically or mentally incapacitated and therefore incapable of self-support.

Other Dependents

An eligible single employee will be entitled to a dependency allowance for each one of his parents, and an eligible married employee for only one of his parents or one of his parents-in-law. However, the parent's gross annual income, regardless of source, must be less than \$1,200 and the eligible employee and/or his spouse must contribute more than half the financial support. Furthermore, the parent(s) must meet one of the following conditions:

1. Resides permanently in the employee's household.

2. Be a patient in an institution or a resident in a home for the aged.

Dependency allowance will be granted to those eligible employees for their dependents who fulfill the requisites and limitations above, and will be \$675 annually for spouse; \$400 annually per child; and \$275 annually for other dependents.

An eligible employee who does not have a spouse, or is legally separated and does not receive a dependency allowance for a spouse, may receive \$675 instead of \$400 for one child who meets the requisites.

Payment of Dependency Allowance

Payment of annual dependency allowance is made on a prorated basis every month except for the month of entering or leaving the service of the Bank when it is prorated according to the exact number of days concerned.

Date of entitlement for payment will be the first day of the month immediately following the month during which the request is presented and approved, except in the case of newly born children. In such situation, payment will commence on the first day of month following the month of birth, provided the request is presented within 3 months of birth.

Payment of dependency allowance will cease on the last day of the month in which the dependent ceases to meet any one of the requisites.

Adjustments (Spouse and/or Parent (s))

The definite entitlement to the dependency allowance benefit arises at the time when the annual income of the spouse, father and/or mother is known with certainty for the calendar year. As there is a right to receive provisional payments prorated monthly and charged to this allowance, it is recognized that during the course of the year the employee exercises the right to receive this allowance on the estimated base of the gross income of the spouse or of the father or mother.

Consequently, there can be unforeseen changes to the estimated income, during the calendar year, which can affect the right of the employee to receive the annual allowance, and which can only be known at the end of that year. Should this happen, the employee has the obligation of notifying the Bank of the variation in the income within 10 days following the close of the calendar year. In those cases where the limits established for the gross annual income have been exceeded, the amount of the dependency allowance received by the employee during the calendar year, based on provisional payments, must be reimbursed to the institution within the same number of months that the payments had been received. However, the case may happen wherein an employee who has not received provisional payments for dependency allowances, due to the expectation that the spouse, father or mother would have a higher income than that established for the right to this allowance, finds that at the end of the calendar year such income did not exceed the established limits. In this case, upon the application of the employee, the Bank must pay the dependency allowance due for the calendar year, unless the employee has not completed the full year of service with the Bank, in which case, the appropriate proportionate amount will be paid.

363. POST ADJUSTMENT

The real income of international employees at the same level should be similar throughout the different offices of the Bank.

Consequently the Bank establishes a post adjustment directly related to the salary level of each employee, taking in consideration the two basic factors which affect the level of real income of employees outside of Headquarters: cost of commodities and services and cost of housing.

Regular employees and temporary employees (Sectorial Specialists and Consultants) who work full-time in offices outside of the Headquarters are eligible with the

exception that, consultants with an employment contract for less than 12 months and those whose duties require them to stay in several countries thereby prohibiting them from establishing a permanent residence will not be eligible for post adjustment.

Scope

Post adjustment is a payment made to eligible employees to compensate for the negative effect produced by higher costs of commodities and services and/or housing at their posts of duty as compared to the Bank's Headquarters.

Post adjustment payments will be considered in the computation of income tax reimbursements established by the Bank.

The factors which determine the need and/or amounts of post adjustment are the following:

Cost of Commodities and Services

Computation of this factor will be based on the current difference between the commodities and services index at the Bank's Headquarters, which is used as the basis, and that of the countries in which the offices are located.

This factor does not include costs for housing or education.

Housing Costs

Computation of this factor will be based on the current difference between average housing costs related to salary levels at the Bank's Headquarters, and the real costs incurred by the employee for this purpose, limited to the maximum average housing costs related to salary levels as established for the country in which the Bank's offices are located.

The basis for the computation of these two factors will be the commodities and services index and the average housing costs for the different cities of the world, as published in the country in which the Headquarters of the Bank is located.

* * * * *

For example, a child attends school for only one-half of the academic year within a calendar year, the employee would then be entitled to 75% of the cost of tuition and transportation up to a maximum of \$500 (one-half of the \$1,000 for a full academic year).

Appointment, Change in Post of Duty or Termination occurring during the calendar year

When for the reasons mentioned, an employee does not complete a calendar year of service as an eligible employee, the amount of the grant will be the proportion that the period of schooling of the dependent children has to the full academic period within the calendar year.

Tuition and Transportation

The amount of the reimbursement will only cover the costs of tuition and transportation for schooling. Not to be reimbursed are such other costs as room and board, tutelage, part-time education, books, registration, etc.

364. A HIGHER EDUCATION ALLOWANCE — EXPERIMENTAL PROGRAM

I. INTRODUCTION

It is a primary goal of the Bank, in keeping with one of its most important purposes, to provide for staff training with a view to subsequently having trained persons engage in development tasks in their own countries.

Accordingly, within that frame of reference and in addition to the policies of the Bank now in effect — policies that support and stimulate the maintenance of bonds between the employee and his family and his or her country of origin — the higher education allowance is now established, on an experimental basis, to enable expatriate employees to obtain reasonable assistance to finance the education of their eligible dependents whenever such education, pursuant to the purposes of the Bank, is intended to preserve the bonds with the country of origin and to facilitate subsequent readjustment of the family group to the country of origin.

II. ELIGIBLE EMPLOYEES

The following persons are eligible for the allowance: regular staff, the Controllers of the Evaluation and Review System, assistants to the Executive Directors and sectorial specialists who have been assigned to a country other than their country of origin, provided that at Bank headquarters the employees are in possession of a G(iv) visa and that in the field they are not nationals or residents of the country to which they are assigned.

III. ELIGIBLE DEPENDENTS

An eligible employee may apply for the allowance for each one of his children who is recognized as an authorized dependent in accordance with Personnel Policy #362 provided that the dependent will be less than 24 years of age when school commences.

IV. LOCATION OF THE INSTITUTION OF LEARNING

The allowance applies only if the institution of learning is located in the country of origin of the employee and that country is a member of the Bank.

In exceptional cases when in the country of origin of the employee the careers, courses of instruction or field of specialization to be followed by the eligible dependent are unavailable, a different country may be allowed provided it is not the country to which the employee is assigned, and provided the country is a member of the Bank and has the same national language as that of the country of origin of the employee.

V. NATURE OF THE INSTITUTION OF LEARNING

The allowance applies only to full-time study to obtain a professional degree in duly recognized institutions of higher learning in the country.

The expressions *full-time* and *institution of higher learning* are defined in item 2 of subheading "Children" of Personnel Policy #362.

VI. AMOUNT OF THE ALLOWANCE

The allowance is limited to 75% of reimburseable costs, with a maximum of US\$1,500 for each complete academic year for each eligible dependent.

THE WORLD BANK GROUP PERSONNEL MANUAL STATEMENT

EDUCATION BENEFITS

I. OBJECTIVE

(1) The basic objective of the World Bank Group's education benefits policy is to provide reasonable assistance to expatriate staff members who face *additional* expenditures as a result of the need to educate their children in a manner intended to facilitate their eventual return to their home country.

II. DEFINITIONS

A. Staff Member

(2) For the purpose of this Policy Statement, *staff member* means a person holding a Regular Fixed-term, Technical Assistant or Secondment Staff appointment as defined in Personnel Manual Statement No. 2.00, Recruitment and Appointment.

B. Child

(3) *Child* means the staff member's son or daughter (or, stepson or stepdaughter) who resides in the staff member's household and on whose account the staff member is eligible for a dependency allowance under Personnel Manual Statement No. 3.10, Dependency Allowance. The eligibility of a child not residing in the staff member's household and for whom the staff member is eligible for a dependency allowance will be determined by the Director of Personnel, taking into account the circumstances of the individual case.

C. Home Country

(4) *Home country* means the country to which the staff member is granted home leave under Personnel Manual Statement No. 3.45, Home Leave.

D. *Mother Tongue*

(5) *Mother tongue* of the staff member means an official language of the home country.

* * * * *

Education benefits are provided with respect to the following types of education:

(a) *Primary or Secondary Education*

A child who is in full-time attendance at a recognized primary or secondary level educational institution anywhere in the world qualifies for education grant benefits. In addition, where such attendance is in a country other than that of the duty station, travel benefits are provided.

(b) *Higher Education*

A child who is in full-time attendance at a university (or other recognized institution of higher education) either in the home country or in a country other than that of the duty station where it is determined by the Bank Group that the language and system of education are substantially the same as in the home country qualifies for education grant and travel benefits.

(c) *Instruction in Languages and Specified Subjects*

In addition to the benefits set out in sub-paragraph (a) above, where applicable, education grant benefits are provided for bona fide instruction in:

- (i) the mother tongue of the staff member, or language of instruction of the public schools in the duty station country, provided that the child is attending a public or other accredited school in the duty station country and that the staff member's mother tongue is different from the language of instruction of the public schools in the duty station:

- (ii) specified subjects required to enable resumption of education in the home country when instruction in such subjects is not provided at the public school which the child is attending in the duty station country.

(d) *Apprenticeship*

A child who is serving a recognized apprenticeship (or under articles recognized by a professional body) either in the home country or in a country other than that of the duty station where it is determined by the Bank that the language and system of education are substantially the same as in the home country qualifies for travel benefits.

E. *Cost of Attendance*

(6) The *cost of attendance* means the cost of the education of a child to a staff member including the cost of enrollment registration, prescribed text books, courses, laboratory fees, examination and diploma fees but excluding all other fees and charges such as local transportation, uniforms, lunches and charges for boarding.

F. *Income*

(7) *Income*, when used with reference to a staff member means the staff member's Bank Group net salary and dependency allowance income when used with reference to the staff member's spouse minus the spouse's income used for purposes of dependency allowance.

III. RESPONSIBILITY

(8) The Director of Personnel is responsible for the interpretation and administration of this policy, including determination of a staff member's eligibility for education benefits and authorization of appropriate entitlement as provided in this Statement.

(9) The Administrative Expense Division, Controller's Department is responsible for making payment in accordance with the authorization of the Director of Personnel.

(10) The Travel and Shipping Division, Administrative Service Department is responsible for making arrangements for travel and shipment in accordance with the authorization of the Director of Personnel.

(11) Staff members are responsible for promptly reporting to the Director of Personnel any changes affecting their eligibility for, and entitlement to, education benefits.

IV. ELIGIBILITY

(12) A staff member whose official duty station is outside the home country shall be eligible for education benefits provided that, if stationed at Headquarters, the staff:

* * * * *

(13) The age limit for education benefits is 22. However, if a child reaches the 22nd birthday after the commencement of an academic year, benefits will be provided through the end of that academic year. In the case of a child whose education is interrupted for at least twelve months by national service or illness, the period of eligibility shall be extended by the period of interruption.

(14) There is no eligibility for benefits under this Statement with respect to:

- (a) attendance at a kindergarten or any school below the primary level;
- (b) correspondence courses and private tutoring except as provided in sub-paragraph (12)(e) above.

(15) As eligible staff member will receive full entitlement to education benefits in accordance with

Section V below provided that in the case of a married staff member:

- (a) the spouse's income for the calendar year preceding the commencement of the academic year for which education benefits are claimed does not exceed \$8,000 gross; or
- (b) if the spouse's income exceeds \$8,000 gross, the staff member's share of the combined net income of the staff member and the spouse for the calendar year preceding the commencement of the academic year for which education benefits are claimed is 50% or more.

(16) If the spouse's income exceeds that of the staff member and is more than \$8,000 gross, the entitlement calculated in accordance with Section V below will be reduced at the rate of 3% for each percentage point by which the staff member's income is less than 50% of the combined net income of the staff member and the spouse.

V. TYPES OF BENEFITS

A. Education Grant Benefit

(17) Subject to the provisions of Section IV above, a staff member is entitled to an education grant benefit (up to an *overall* maximum in respect of each child of \$1,500 per academic year) as follows:

- (a) for attendance at an educational institution in the country of the duty station — 75% of the cost of attendance;
- (b) for attendance at an educational institution outside the country of the duty station — 75% of the cost of attendance plus;
 - (i) where board is provided by the institution, 75% of the cost of board or
 - (ii) if board is not provided by the institution and the child does not live with a parent, a subsistence grant of \$650;
- (c) for instruction as specified under sub-paragraph (12)(c) above, 75% of the cost of such instruction.

(18) When a child is not in attendance at the educational institution for the full period of the academic year, or when the period of service of the staff member is less than the full period of the academic year, the amount of education grant will be pro-rated on the proportion of the period of attendance or service to the full academic year. In such cases, the maximum grant will also be pre-rated in the same manner. For this purpose, a fraction of a full month consisting of 15 days or more will be considered as a full month and a fraction of a full month consisting of less than 15 days will be disregarded.

(19) Where private instruction in languages or specified subjects covered by provisions of the Education Benefits Policy is undertaken during a period between the end of one academic year and the commencement of another, the cost of such instruction will be included in the cost of attendance for the succeeding academic year.

B. Travel Benefits

(20) Subject to the provisions of Section IV above a staff member whose child is being educated outside the duty station country is entitled in addition to the education grant benefit, where applicable, to a travel benefit with respect to travel between the educational institution and the child's residence under the terms and conditions set out below, however, travel between the educational institution and the staff member's home in the home country may be allowed in the calendar year in which the staff member takes home leave in lieu of travel between the educational institution and the duty station.

(21) Except as provided in paragraphs (22) and (26) below, the child is entitled to a one-way trip at Bank Group expense at the beginning of each academic year, provided that the child will be in full-time attendance at the educational institution for at least the first six months of the academic year; and the child is entitled to a one-way trip at Bank Group expense at the end of each academic year, provided that the child has been in

full-time attendance at the educational institution for at least the last six months of the academic year. Actual travel need not be undertaken strictly at the time the entitlement arises, provided that it is undertaken during the course of the same academic year.

(22) When the period of service of the staff member falling within the academic year is less than six months travel benefits for that academic year will be limited as follows:

- (a) if the period of service falling within the academic year is between three and six months * * *.
- (b) if the period of service falling within the academic year is less than three months-no education travel.

(23) Subject to paragraph (24) below, the Bank Group will meet the actual cost of transportation and other expenses set forth below by the most direct route between the educational institution and the duty station or between the educational institution and the home country:

- (a) Cost of transportation by any mode but not to exceed the cost by less than first class air or, where no air facilities exist, first class rail;
- (b) Reasonable incidental expenses;
- (c) For long journeys a per diem of \$20 for each overnight stop taken en route up to the maximum number of overnight stops set forth in the Annex to Personnel Manual Statement No. 205, Relocation on Appointment;
- (d) Cost of excess baggage up to the limit provided for first class air transportation;
- (e) Cost of a separate shipment of personal effects of up to 130 lbs. gross by air freight, or 250 lbs. gross by sea.

(24) When the cost of travel between the educational institution and the duty station is greater than that

between the duty station and the home country, any additional cost of transportation and other expenses must be borne by the staff member. However, this paragraph does not apply when such a change has resulted from the staff member's change of duty station.

(25) Staff members, on a resident assignment outside Europe and North America, whose children attend an educational institution outside the duty station country may opt for a travel benefit in accordance with paragraphs (20) through (24) above for their children to visit the duty station or one parent to visit the child at the educational institution.

(26) A child who enjoys a travel benefit under the provisions of this Section is not eligible in the same calendar year for travel under Personnel Manual Statement No. 3.45, Home Leave. Where a child who travels under the provisions of this Section accompanies other members of the family travelling on home leave, the child will be entitled to the same class of accommodations as applicable to other members of the family.

VI. PROCEDURE

(27) At the beginning of the academic year, staff members may apply for an advance against their entitlement to education grants on the basis of the estimated expenses for the full academic year. In order to apply for an advance education grant or travel benefit, the Application for Education Benefits form (No. 279) must be submitted to the Personnel Services Section. Normally, no more than one advance will be considered for each child each academic year. A staff member who has received an advance education grant or travel benefit must submit a Certificate of School Attendance and Expenditure form (No. 677) not later than three months after the end of the academic year or on termination of employment, if earlier. Where the actual cost differs from the estimated expense, an appropriate adjustment will be made. A staff member who has not applied for an advance may apply for an

education grant at the end of the academic year (but not later than six months after the end of the academic year) by submitting Forms No. 279 and No. 677.

VII. TRANSITIONAL PROVISIONS

(28) Notwithstanding the provision of paragraph (12) above, the eligibility for education benefits will be retained in case of:

- (a) Staff members in Levels A through I who were appointed prior to January 1, 1974 and who were in U. S. permanent resident status as of that date;
- (b) staff members in Levels J and above who held U. S. permanent resident status prior to January 1, 1954 and who have been continuously in the employ of the Bank Group since that date.

UNIVERSITY OF MARYLAND — POSSIBLE ADJUSTMENTS OF TUITION AND OTHER CHARGES

The University of Maryland has long differentiated between individuals who are "resident" (domiciled) in the State of Maryland and individuals who are "non-resident" in the state for purposes of admitting students and charging amounts for tuition and other fees. This is a policy common to most, perhaps all, public universities in the United States. At the University of Maryland, students who are determined to be residents of Maryland are referred to as having "in-state" status; others are in "out-of-state" status.

Beginning in 1974, the University limited eligibility for in-state status to students who are (or students whose spouse or parents are) United States citizens or who are admitted to the United States for permanent residence on immigrant visas. Three students who are G-iv visa holders or whose parents are G-iv visa holders

commenced litigation against the University to contest the validity of these limitations. On July 13, 1976, the United States District Court for the District of Maryland decided that a rule which prevented G-iv visa holders from demonstrating that they were domiciled in Maryland was invalid by reason of the due process clause of the United States Constitution, and directed that the rule not be enforced.

The University has decided to appeal this decision to the United States Court of Appeals for the judicial circuit which includes Maryland. Because the appeal is not frivolous, the District Court, following procedures used frequently, has suspended enforcement of its own decision until the appeal is decided. This means that students who are classified as out-of-state by reason of G-iv status will continue to be treated as out-of-state unless and until the decision of the District Court is affirmed by the Court of Appeals.

However, if the decision of the District Court is affirmed, the University will refund the difference between the out-of-state and in-state tuition and other charges for all semesters beginning with the fall 1976 semester if the student would have been classified as in-state for those semesters under the District Court's decision and if the student applies to the Director of Admissions at the University for reclassification from out-of-state to in-state before the last day available for registration for the fall 1976 semester. On receipt of such application, the University will reply that the request will be held in abeyance pending the outcome of the appeal.

If you reside in the State of Maryland and if you or your spouse or child is classified as an out-of-state student by reason of G-iv visa status, the student should apply for reclassification to in-state status before the time indicated.

Staff members who, under the provisions of Personnel Manual Circular No. Pers/6/76 of April 26, 1976, are eligible for the Bank's tuition equalization subsidy

with respect to the education of their dependent children at the University of Maryland must submit to the Personnel Department the following documentation in order to obtain the appropriate reimbursement from the Bank:

- (a) Receipted bills for the tuition paid;
- (b) Copies of the application to the Director of Admissions of the University for a reclassification from out-of-state to in-state status, and the Director of Admission's reply thereto; and
- (c) Documentation from the University of Maryland listing the resident and non-resident tuition charges.

If the amounts reimbursed to the staff member by the Bank are ultimately refunded by the University, the staff member will, of course, be required to repay the Bank.

August 16, 1976